SEPT. 1961

Vol. 36 No. 11

The Los Angeles BAR BULLETIN

The Los Angeles BAR BULLETIN

VOLUME 36 • NO. 11 • SEPTEMBER 1961

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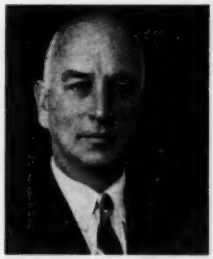
OFFICIAL MONTHLY PUBLICATION OF THE LOS ANGELES COUNTY BAR ASSOCIATION. ENTERED AS SECOND CLASS MATTER OCTOBER 15, 1943, AT THE POSTOFFICE AT LOS ANGELES, CALIFORNIA, UNDER ACT OF MARCH 3, 1879. SUBSCRIPTION PRICE $2.60 A YEAR, 40C A COPY.

THE PRESIDENT'S PAGE



☆ ☆ ☆ ☆ ☆ ☆ ☆ ☆ A. STEVENS HALSTED, JR.

Potpourri

» » SITTING ON THE LID OF THE ASSOCIATION, one can not help but be impressed with how many activities are continually cooking. As ours is the third largest local bar association in the country, this busy hum is probably not surprising.

Stan Johnson and the other members of the office staff turn out a heavy volume of work every day in serving our members and the citizens of this county. One of the engrossing tasks of the Association's office is supervising the two Lawyers' Reference Services. Most of you already know, and can take pride in the fact, that the Association's Lawyer Reference Service was the first of its kind in the country. A new panel was set up last July to assist in the state-wide plan of the State Bar and the Attorney General's office to help some 20,000 unfortunate California investors in the bankrupt Ten Per Cent trust deed companies. Special arrangements have been made within the Association's referral panel to advise the investors in the eleven insolvent companies who require legal advice and do not have their own attorneys.

In recent years the Board of Trustees has revised the system for appointing standing Committees. After careful consideration, the Board concluded that wider participation in Association activities was desired and that new points of view would be stimulating to Committee work. Consequently, the rotation of Committee members and chairman has been adopted as a matter of policy. It has been gratifying to find that these results have been achieved without sacrifice in the quality of work or diligence of the Committees. Hardly a week goes by without at least one Committee rendering a significant report. For example, so far this year the Committee on Pleading and Practice has made three studies, one of which considered favorably the Vexatious Action Bill introduced in the last legislative session (A.B. 2684); another report analyzed proposed rules of our Superior Court for the Coordination of Master Calendars in the several Districts of Los Angeles County. The Judiciary Committee is frequently asked to report on important and troublesome problems; its trenchant studies are always of great value and assistance to the Board of Trustees.

The Insurance Committee, after extensive study of various proposals, re-

cently approved a Group Major Medical Insurance Plan. The Board of Trustees adopted this program which will be underwritten by National Casualty Company of Detroit. Elsewhere in this issue John C. Morrow, Chairman of the Insurance Committee, describes this new insurance plan.

The hard work of the BULLETIN Committee is, of course, evidenced each month in tangible form. Incidentally, for the first time in many years, the mast-head of this issue of the BAR BULLETIN does not carry the name of Frank E. Loy. He was editor for two years. In case you do not know it, Frank recently had an attack of Potomac fever and has left these parts for a spell to become Special Assistant to the Aviation Advisor to the President. Frank, along with George Harnagel, Jr., and Bud Krueger, the present editor, should get the credit for the recent new look of the BULLETIN.

By designation of Chief Judge Peirson M. Hall, on July 13-15th I had the privilege of attending the Ninth Circuit Judicial Conference at Portland, Oregon. At this meeting a number of important reports were rendered concerning the administration of justice in the federal courts of this circuit. Representatives of our Association took a prominent part in the Conference deliberations: J. E. Simpson headed the committee on amendments to the Federal Rules of Civil Procedure; Charles H. Carr chaired the committee on Rules of Criminal Procedure; and Francis F. Quittner served as chairman of the Bankruptcy Committee. Herman F. Selvin participated actively in a panel discussion on Summary Judgments. As might have been expected, these gentlemen distinguished themselves.

A provocative paper entitled "Law Books Unlimited" was delivered by Eugene M. Prince of San Francisco and former President of the State Bar (1954). We all know there are too many law books, but probably not everybody is aware of their vast number, or how critical the problem they present. Mr. Prince pointed out that if last year the Los Angeles County Law Library had put its shelves in one row, there would have been about 11 miles of law books—a mere 3½ hour stretch for Mr. Justice Douglas (who attended the Conference) and a long day's walk for the rest of us. Mr. Prince predicted that the County Law Library's present additional capacity of nine miles would be used up in five years.

Printed judicial decisions in the United States today number about two and a quarter million. During the first 50 years of our Republic, only 50,000 decisions were reported; in the next 50 years, 450,000; and in the next half-century to 1940, 1,250,000. With the probability that we can add five or six hundred thousand more for the past 20 years, the rate of increase is startlingly ominous.

The number of law books relative to reported decisions grows even faster than the decisions themselves. California now has three sets of reporters, apart from the annotated series. As practicing lawyers we have to worry about the cost of those decisions, to say nothing of the large bulk of citators, digests, texts, law reviews, annotations and cyclopedias that assist us in their use. The expense of all this is bad enough, but even worse is the vast amount of time wasted in winnowing out cases from such a stupendous mass.

Brother Prince has suggested a number of remedies to retard the gargan-

tuan growth of law books: shorter opinions, elimination from the reports of all opinions important only to the parties but not to the law, and a rule of court prohibiting the citation or use in printed briefs or oral arguments of any opinion not published by authority of Court. While many may not be prepared to go as far as Mr. Prince *(i.e.* in regulating the contents of briefs), we hope his voice will be heard by the bench and bar across the country so that we can meet head-on the problem of "Law Books Unlimited", a burden about which we have all been perhaps too apathetic.

THIS MONTH'S COVER

This month's cover photograph depicts the last lynching in Los Angeles—that of Michel Lachenais in 1870. The view is facing south across Temple Street to Pond Lake Hill, site of the present Civic Center. The following description of the lynching is taken from *Sixty Years in Southern California* by Harris Newmark (Boston, Houghton-Mifflin Co., 1930).

"Lachenais lived near where the Westminster Hotel now stands, on the northeast corner of Main and Fourth Streets, but he also had a farm south of the city, adjoining that of Jacob Bell who was once a partner in sheep-raising with John Schumacher. The old man was respectable and quiet, but Lachenais quarreled with him over water taken from the *zanja*. Without warning, he rode up to Bell as he was working in his field and shot him dead; but there being no witnesses to the act, this murder remained, temporarily, a mystery. One evening, as Lachenais (to whom suspicion had been gradually directed) was lounging about in a drunken condition, he let slip a remark as to the folly of anyone looking for Bell's murderer; and this indiscretion led to his arrest and incarceration.

"No sooner had the news of Lachenais's apprehension been passed along than the whole town was in a turmoil. A meeting at Stearns's Hall was largely attended; a Vigilance Committee was formed; Lachenais's record was reviewed and his death at the hands of an outraged community was decided upon. Everything being arranged, three hundred or more armed men, under the leadership of Felix Signoret, the barber—Councilman in 1863 and proprietor of the Signoret Building opposite the Pico House—assembled on the morning of December 17th, marched to the jail, overcame Sheriff Burns and his assistants, took Lachenais out, dragged him along to the corral of Tomlinson & Griffith (at the corner of Temple and New High Streets) and there summarily hanged him. Then the mob, without further demonstration, broke up; the participants going their several ways. . . .

"The following January, County Judge Y. Sepulveda charged the Grand Jury to do its duty toward ferreting out the leaders of the mob, and so wipe out this reproach to the city; but the Grand Jury expressed the conviction that if the law had hitherto been faithfully executed in Los Angeles, such scenes in broad daylight would never have taken place. The editor of the *News*, however, ventured to assert that this report was but another disgrace."

The photograph is from the collection of historical photographs of the Title Insurance and Trust Company.

Administration of Foreign Testamentary Trusts in California Courts

by ROBERT G. LANE

» » OCCASIONALLY IN A WILL establishing a testamentary trust there is an expressed intention that the trust be administered where the beneficiary resides. This seemingly harmless provision can lead to difficulty when the testator dies outside of California, probate of the will is in a foreign forum and administration of the trust is attempted here.

A factual situation which might be encountered is as follows:

(i) The testator dies in another state but leaves no property in this state over which ancillary probate is required.[1]

(ii) The will provides that the trust shall be administered in whichever state the beneficiary resides at the time of his death, with perhaps the added provision that the executor of the estate select an appropriate trustee within that jurisdiction.[2]

(iii) The foreign forum is willing to transfer the trust assets to a California trustee.[3] The only beneficiary of the trust is a resident of California.

If the intent of the testator is to be carried out, is there any legal basis for California courts assuming jurisdiction over the trust as though distributed under a local will?

Jurisdiction of the Superior Court

A Superior Court, while capable of declaring, enforcing or terminating a trust through the exercise of its general equitable powers, will in most instances only assume jurisdiction if a bona fide dispute exists between the parties.[4] Therefore, though the court is available to a trustee, a justiciable controversy is required before jurisdiction will be assumed, and often such a procedure involves a lengthy delay in trial setting. In addition, as this is in the nature of a single petition for relief, any further petitions will require entirely new actions with new trial settings as well as additional fees.

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[1]If there is property of the decedent present in the state (Every state has plenary power with respect to the administration and disposition of all property of deceased persons found within the jurisdiction. *Estate of Glassford*, 114 Cal. App. 2d 181, 188; 249 P. 2d 908 (1952)), it is possible to commence ancillary proceedings in the county where such assets are located. *Probate Code* §301 (3).

[2]If the testator simply provides that "the trust shall be administered in the state where the beneficiary resides" then the additional problem may arise upon the subsequent change of residence of the beneficiary as to whether the trust must also move to the new state of residence.

[3]This may be a serious problem, as evidenced by a California statute which restricts the transfer outside the state of trust funds in excess of $7,500.00, where jurisdiction has previously been obtained through the probate of the will of a non-resident in our courts. *Probate Code* §1132.

[4]*Code of Civil Procedure*, §1060; *Strauss v. Superior Court*, 36 Cal. 2d 396, 401-402, 224 P. 2d 726 (1950); *Monahan v. Dep't of Water & Power*, 48 Cal. App. 2d 746, 750-751, 120 P. 2d 730 (1944).

A native Californian, Mr. Lane received his B.A., M.A. and LL.B. degrees from University of Southern California in 1953, 1955 and 1960, respectively. While with the U.S. Air Force during the period 1954-57, he served as a navigator in the Strategic Air Command. He is a member of the American Bar Association Antitrust Section, and is presently an associate with the Los Angeles firm of Paul, Hastings & Janofsky.

Section 360 of the *Probate Code* which establishes the jurisdictional limitations of our probate courts over foreign wills provides:

"A will admitted to probate in any other state or country, or established or proved in accordance with the laws thereof, may be offered for probate in the superior court having jurisdiction as determined by Section 301 of this code."

Thus, to make a final determination as to whether an ancillary proceeding may be commenced in California, it is necessary to examine the provisions relating to jurisdiction as set forth in Section 301 of the *Probate Code*.

Section 301 provides:

"Wills must be proved, and letters testamentary or of administration granted and administration of estates of decedents had, in the superior court:

(1) Of the county of which the decedent was a resident at the time of his death, . . . ;

(2) Of the county in which the decedent died, leaving estate therein, . . . ;

(3) Of any county in which he *leaves estate*, the decedent not being a resident of the state at the time of death. . . ." (Emphasis added).

The assumed factual situation being that the decedent was neither a resident, nor died within the state, the question is whether there is a basis for establishing "estate" within California for purposes of Section 301 solely by virtue of the fact that the testator intended and directed in his will that the testamentary trust be administered here. *Leaves estate*, as used in Section 301, has been interpreted to mean property within the state on the date of death.[5] Unless a petitioner is able on some theory to show an "estate," he will not be able to establish jurisdiction of the Superior Court under subsection 3 of Section 301, and thus the intent of the testator will be frustrated.

"Estate" Within California

No case has been found where the intent alone of the testator has been cited as the determining factor in allowing assumption of jurisdiction over a foreign testamentary trust. Several theories, however, are advanced for an assumption of jurisdiction:

(1) *Upon the theory of a debt owing to the beneficiary at the time of death.*[6] At the time of death of the testator there is fictionalized a debt due and owing to the California beneficiary under the trust provisions. As the "situs of the debt" may be regarded as an asset, and thus "estate" within California, an ancillary proceeding can be initiated here in order that a local claimant need not present his claim in another forum nor accept assurances of payment by foreign executors.[7]

(2) *Upon the theory that the beneficiary has an inchoate right which is*

[5] *Estate of Estrem*, 16 Cal. 2d 563, 568; 107 P. 2d 1 (1940).

[6] *Estate of Waits*, 23 Cal. 2d 676, 680; 146 P. 2d 5 (1944). *Estate of Card*, 64 Cal. App. 268, 272, 222 P. 145 (1923).

[7] See 20 *Cal. Jur.* 2d 72, which states ". . . that for administration purposes personal property, especially a chose in action, has its situs where the debt can be enforced."

in existence within the state at the date of death, and thus "estate" for purposes of jurisdiction. The word "estate," as defined in *Estate of Glassford,* [8] "may mean 'property' or 'The degree, quality, nature and extent of one's interest in or ownership of property, real or personal' . . . and is sufficiently comprehensive to include every species of estate, both real and personal, whether choate or inchoate, . . . whether corporeal or incorporeal." Thus, the expectancy of the beneficiary residing within the state at the date of death may well be considered a sufficient right to enable administration of such assets.[9]

(3) *Upon the theory that there are certificates of stock in domestic corporations in the estate of the testator.*[10] If a stock of a domestic corporation is included within the estate of the decedent, that is sufficient to permit the Superior Court to find "estate" in California for purposes of administration. The court's premise is that the situs of the property is in the state of incorporation even though the deceased resided and the certificates were present in a different jurisdiction.[11] The courts have in effect, therefore, created an exception to the rule of mobilia sequuntur personam (movables follow decedents to the state of their last domicile) in regard to stock certificates of domestic corporations.[12]

If a prima facie showing, under one of the above theories, can be made regarding "estate" in California, "the jurisdiction of the probate court is not dependent upon the ultimate determination of the existence of assets."[13] It was said in the *Estate of Helm:*

> "The necessary jurisdictional showing is made at the time of the application for letters, and only a prima facie showing regarding assets need ordinarily be made."

Therefore, a prima facie showing at the time of your petition is sufficient to allow the court to assume jurisdiction.[14]

Further Obstacles to Local Administration

Once a sufficient showing of assets has been made to establish jurisdiction, there are still two obstacles to administration of the trust in California. First, there is the problem of finances. Each of the theories set forth above, with the exception of the California stock certificate theory, is based upon an assumption that property rights in all of the assets of the trust were in fact in existence in California at the time of death. In carrying our reasoning one step further, we must, to be consistent, argue that all the trust assets were within the confines of California at the moment of death of the testator for purposes of ancillary probate. The statutory fees for both attorneys and the executor, therefore, would be based upon the entire amount of the trust res, possibly resulting in double expenses against the trust principal.

The second, and perhaps the most difficult problem, is to convince the court by one of the above theories that it should assume jurisdiction over the

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[8] *Estate of Glassford,* 114 Cal. App. 2d 181, 189-190; 249 P. 2d 908 (1952). See also *Estate of Adams,* 148 Cal. App. 2d 319, 323; 309 P. 2d 623 (1957).

[9] The fact that the executor of the estate of the deceased is to select the trustee in the foreign forum should in no way be a deterrent. When a donor gives to another a power of appointment over property, the donee of the power does not thereby become the owner of the property; the power is simply a delegation to the donee of authority to act for the donor in the disposition of the latter's property. *Estate of Bowditch,* 189 Cal. 377, 380; 208 P. 282 (1922).

[10] *Estate of Layton,* 217 Cal. 451, 466; 19 P. 2d 793 (1933).

[11] *Ibid.*

[12] *Fishbank v. Forkner (J.C.) Fig Gardens, Inc.,* 218 Cal. 401, 402, 23 P. 2d 293 (1933).

[13] *Estate of Helm,* 6 Cal. App. 2d 752, 755; 45 P. 2d 250 (1935).

[14] 11A *Cal. Jur.* P. 112.

trust. It is possible that considerable resistance may be encountered when a California court, already burdened, is asked to employ a legal fiction to enable it to undertake supervision of a trust created by a non-resident and established by a foreign decree, of distribution.

Petition by the Beneficiary

It is submitted that a more straightforward approach than those set forth previously would be to have the beneficiary, trustee or executor petition the probate court for the assumption of jurisdiction over the trust relying on sound practical reasons, primarily the testator's intentions. Our courts in several instances have said that the probate court will exercise its jurisdiction "where administration is either necessary or advisable or desirable."[15] In at least one instance the necessity and desirability of obtaining the probate courts' jurisdiction was sufficient to enable the petitioner to commence an *ancillary* proceeding.[16]

In the *Michael Estate* the decedent had died a resident of Philadelphia and left a Will in which the residue of his estate was placed in trust with two individual trustees to invest and reinvest under the laws of the State of Pennsylvania. The three beneficiaries of the trust left the East and became residents of San Mateo County, California. These three persons were the only parties in interest except for possible minor or unborn contingent remaindermen. A petition entitled "Petition for Order Appointing Trustees and Authorizing and Directing Assumption of Jurisdiction Over Testamentary Trust" was signed and filed by the three beneficiaries in the Probate Court of San Mateo County. The court was asked to permit the situs of the trust to be changed by transferring the trust estate from Pennsylvania to California. It was alleged that such a transfer was necessary to place the trustees, beneficiaries, and the trust estate geographically and physically close to each other, and in order that the administration of the trust be more expeditiously conducted. Following the hearing of the petition the court in this instance assumed jurisdiction over the trust and subsequently administered it as though the res had been distributed under a local will.

Conclusion

There appears to be no sound reason for a California probate court refusing jurisdiction over a foreign testamentary trust because of lack of "estate" in California at the time of the death of the testator, where the expressed intent of the testator is that the local forum assume supervision over the foreign trust res. Instead of attempting to fictionalize some assets within the state at the moment of death, with resultant fee problems, it is submitted that all would benefit by a more forward approach, as found in the *Michael Estate*, where the probate court was asked to assume continuing supervision over the trust based on the practical considerations of convenience to the beneficiaries and ease of administration.

[15] *Estate of Daughaday*, 168 Cal. 63, 71-72; 41 P. 929 (1914); *Estate of Helm*, 6 Cal. App. 2d 752, 755; 45 P. 2d 250 (1935).

[16] See *Estate of David Michael*, Superior Court of San Mateo County, California, Probate No. 20855 (1954).

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The Course of the BULLETIN:

An Editorial . . . . . .

» » THE LOS ANGELES BAR BULLETIN has traditionally and purposefully published articles of academic and professional value to the Bar. The Special Committee on the BAR BULLETIN in its December 9, 1959, report recommended that the BULLETIN "continue to publish legal articles of value and interest to lawyers, specializing as in the past on articles of a bread-and-butter type which, although useful to the private practitioner, are not likely to be found in the law review."

The BULLETIN has avoided the personal notes, formal committee reports and releases, and miscellany which characterize many local bar journals. This has not always been an easy course; such material is much less difficult to obtain than articles dealing with the substantive aspects of practice. It has, however, been worthwhile. As a repository for signficant thinking on problems topical to lawyers the BULLETIN has received considerable recognition. It is one of the 12 such publications carried in the Index to Legal Periodicals. It is the only local journal to be carried in West's California Digests and Codes.

"Bread-and-butter" is, of course, fairly uninteresting to those who want cake. It was with this in mind that the BULLETIN (as recommended by the 1959 report) brought in photographs, line drawings, profiles, a format suggesting modernity, and stepped up George Harnagel's output of *bon mots*. Nonetheless, the primary course of the BULLETIN has not been changed.

If the BULLETIN is to properly pursue this course, the members of the Association should reflect upon their responsibilities to the BULLETIN. It is a local journal, and its content for the most part must be drawn from its subscribers. Unfortunately, while many receive it and some are pleased to read it, few contribute to it. "Contribute" is perhaps a euphemism: some BULLETIN articles are not contributed, but extracted. Happily, the BULLETIN has been privileged to publish many fine articles by lawyers in all phases of practice. *The Tax Reminder, Know Thy Shelves, Brothers-in-Law* and *The President's Page* are regular, uniformly well-done, and greatly appreciated series. The BULLETIN has also in the recent past received a number of fine contributions from local law school faculties (*The Ivory Tower*) and in connection with various symposia (e.g., the litigation, patent and trademark, and oil and gas issues).

If the course of the BULLETIN is a proper one, it should properly be served. If you approve the BULLETIN's course, consider whether you have properly served it. Have you left the writing to others, perhaps "the younger men" in your office, or someone else's office? Do you have an area of expertise upon which you have "meant to write an article someday"? Have you been the member of an association committee which has issued a report which would be an interesting or informative subject for an article?

If you have a subject which interests you, write an article about it for your BULLETIN.

THE EDITOR

The Los Angeles County Bar Association announces that a new Major Medical Policy is available to its members and their dependents. A. Stevens Halsted, Jr., President, is shown above signing the Master Policy in the presence of Richard H. Dutwiler, Assistant Manager of the Southern California Agency of National Casualty Company, left, John C. Morrow, Chairman of the Association's Insurance Committee, center, and Stanley L. Johnson, Executive Secretary of the Association.

The New Los Angeles County Bar Association Group Major Medical Insurance Program

by JOHN C. MORROW

Chairman, Los Angeles County Bar Association Insurance Committee

» » RECENTLY THE ASSOCIATION LAUNCHED its new Group Major Medical Insurance Program. The substantial number of applications for insurance already received indicates that the new plan will fulfill the needs of our members for catastrophe insurance and that the program will not only qualify as a group plan but will prove to be of great value to such of our members who have the foresight to take advantage of their privilege to apply for the insurance.

The Insurance Committee had various proposals under consideration and carefully studied available plans before unanimously recommending this plan to the Board of Trustees as being the best one available for our Association. The Board of Trustees approved and adopted this plan, which will be underwritten by National Casualty

Company of Detroit, a leading company in this field with an outstanding record of success in the field of disability insurance. National Casualty Company has for many years past successfully underwritten the Association's Group Accident and Sickness Program.

A few of the outstanding features of the new Group Plan, in addition to very favorable premium rates not obtainable except through group insurance carried by a large group, may be of interest although full details are available in a brochure which recently was mailed to our members. The insurance pays 80 per cent of all medical expenses up to a $10,000 maximum for each accident or period of sickness, including physician's and surgeon's fees, hospital room and board ($25 per day maximum), miscellaneous hospital supplies and services, drugs and medicines, and like expenses, after satisfaction of a $500 deductible. An eligible member may, at his option and for a small additional premium, cover his dependents, namely his spouse and his unmarried children aged 14 days to 22 years, each being covered to $10,000 limits with like deductibles and coverages. Members with more than two children pay no additional premium and no doubt our more prolific members will welcome this bonus.

Another very attractive feature is that members and dependents who apply during the original enrollment period will be covered regardless of past medical history and without evidence of insurability, no medical questions appearing on the short form application. This is a particularly valuable opportunity for some members who might not otherwise be able to obtain coverage.

The Insurance Committee expects that this very beneficial program will qualify as a group plan in a short time but it will be a prerequisite that at least 50 per cent of our eligible members apply during the initial enrollment period. No insurance will become effective until this quota is attained so members will not only greatly benefit themselves and their families by applying soon but also they will be helping their Association and fellow members by not procrastinating. This insurance pays in full regardless of any other coverage.

Your Board of Trustees and Insurance Committee urge all eligible members to give this program their immediate attention. After the plan qualifies all applicants excepting new members must submit evidence of insurability to obtain coverage.

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by VINCENT C. PAGE

Mr. Page received his B.B.A. in Business Administration from Loyola University (1950), his LL.B. degree from Loyola University School of Law (1952), and was admitted to the bar in 1953. He is a member of the Los Angeles (Member, Executive Council, 1956-1958; Committee on Taxation), American (Section of Taxation; Special Committee on Renegotiation) and Federal (Member, Committee on Contract Procurement) Bar Associations; and The State Bar of California. From 1952-1955, Mr. Page served as Counsel to the Los Angeles Regional Renegotiation Board and since 1955 has been associated with the law firm of Hill, Farrer & Burrill, during which time he has appeared on several tax and renegotiation panels and authored various articles on tax and renegotiation subjects.

» » FOLLOWING PRESIDENT KENNEDY'S RECENT BERLIN SPEECH, Congress approved an additional 3.5 billion dollars for military hardware. This additional appropriation has raised the 1962 military budget to almost 47 billion dollars which is the highest "peace time" budget ever passed. With almost all of the additional appropriation slated for hardware and electronic items, much of it filtering to Southern California, we can expect an increased emphasis in the near future on Renegotiation.

Renegotiation under the Renegotiation Act of 1951[1] is a profit limitation statute designed to eliminate excessive profits from the defense effort.[2] Unlike its predecessors, the Merchant Marine Act of 1936,[3] the Vinson-Trammell Act[4] and the Excessive Profits Tax Acts of 1940[5] and 1950,[6] all but the first of which were administered by the Internal Revenue Service, it does not operate on a fixed formula. Taking a more sophisticated and flexible approach, and administered by an independent agency in the Executive Branch, The Renegotiation Board, it is, at least in principle, designed to rate the producer of defense hardware on the basis of six statutory factors[7] (efficiency, reasonableness of costs and profits, return on capital employed and net worth, extent of risk assumed, contribution to the defense effort, character of business) and to set a reasonable profit in accordance therewith.

Excessive profits are defined in the Act as the "portion of the profits derived from contracts with the Departments and subcontracts which is

[1]Act of March 23, 1951, P.L. 9, C. 15, 65 Stat. 7, 50 App. USC 1211-1233 as amended; The 1951 Act is an outgrowth of the earlier 1942-1943 Act (Sixth Supplemental National Defense Appropriation Act of 1942; Revenue Act of 1943) and the Renegotiation Act of 1948 (Supplemental National Defense Appropriation Act of 1948).

[2]Renegotiation Act of 1951, Sec. 101.

[3]Act of April 28, 1936, P.L. 835, 74th Cng, 2nd Sess. (H.R. 8555) as amended.

[4]Act of March 27, 1934, 10 USC Sec. 2382, 7300.

[5]Second Revenue Act of 1940; Subchapter E, Chapter 2 IRC 1939.

[6]Excess Profits Tax Act of 1950; Subchapter D, 1939 IRC Sec. 430-474.

[7]Renegotiation Act of 1951, Sec. 103 (E); Renegotiation Board Regulations, Part 1460.

determined in accordance with this title to be excessive."[8] By reason of this definition, Renegotiation has been called a 100% tax on whatever profits from defense contracts the Board deems to be excessive. Since 1951 over one billion in profits have been returned to the Government under this statute.

Briefly, the Renegotiation Act of 1951, operates on the overall fiscal year basis employed by the contractor for tax purposes, and not on a contract by contract basis.[9] The starting point is the profit reflected by the contractor *for tax purposes.*[10] At the end of each year a filing[11] is made with the Renegotiation Board in Washington. If the Washington Board feels that there is a possibility of excessive profits, it assigns the case to a Regional Board.[12] The Regional Board reviews with the contractor the contractor's accounting procedures and performance under the above mentioned statutory factors.[13] If the Regional Board is of the opinion that excessive profits exist, it so informs the contractor and asks the contractor to enter into an agreement to refund such excessive profits to the Government. If the contractor agrees, this ends the case. The contractor, however, may appeal to the Board in Washington and thereafter to the Tax Court which is the final Court of Appeal.[14]

Having participated in a great number of renegotiation cases sitting on both sides of the table, it is truly amazing to compare the amount of tax planning which is performed in the mere anticipation of profit with the negligible amount of planning of any sort directed toward preserving the same profit from the renegotiation process once it is earned. In far too many cases, an excessive profits determination could have been substantially reduced or avoided entirely by proper planning, filing and presentation of the case.

While the Board personnel make a conscientious effort to discharge their responsibilities under the statute, they can only act upon the facts presented. Somehow, the renegotiation procedure is too often looked upon as a nuisance to be delegated to the lowest man on the company totem pole until the company receives a letter from the Board stating simply that "a tentative determination has been reached that your company earned excessive profits in the amount of $100,000."[15] At this point the company begins to become somewhat concerned, but is faced with the doubly difficult task of properly presenting the case *and* getting the Board to change its mind.

At present, all contractors having

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[8]*Ibid.*
[9]Act, Sec. 105(a); Regs. Part 1457.
[10]Act, Sec. 103(f); Regs. Part 1459.
[11]Act, Sec. 105(e)(1); Regs. Part 1470.
[12]Act, Sec. 107(d); Regs. Part 1471. At present, there are Regional Boards in New York, Detroit and Los Angeles.
[13]Regs. Parts 1459, 1460 and 1472.
[14]Regs. Parts 1473, 1474, 1475 and 1476.
[15]Unless the Board can determine a refund of at least $40,000, it will clear the case. Regs. Part 1460.5. The purpose of this regulation is to preserve a broad overall approach. Refund determinations ordinarily range in the area of $50,000 to $250,000 but a substantial number have been in the millions of dollars.

defense sales in excess of one million dollars[16] which sales are not otherwise exempt,[17] are vulnerable. There is no fixed percentage of profit or any formula which any company may employ to determine whether their profits will be considered excessive.[18] What may be excessive in dollars and/or ratio in one case may be low in another. However, where profits on defense sales exceed or are anticipated to exceed 10%, particularly when the contractor's operations indicate increasing defense volume from year to year together with a continuing increase in the ratio of profit, the situation deserves close scrutiny and careful planning. Counsel, particularly those involved in tax planning, should be on the alert to spot a potential problem and help plan the successful retention of the profits by the client.

Since in all but a few cases the profit for renegotiation is the profit for tax purposes,[19] consideration from the renegotiation standpoint as well as the tax standpoint should be given particularly to depreciation, executive salary, overhead, inventory and other specific cost policies, since they can legitimately for tax purposes cause a wide divergence in the profit picture. In addition, the cost system employed should be adequate to the demands of the renegotiation process. What might be entirely sound planning for tax pur-

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[16]Act, Sec. 105(f); Regs. Part 1458. Sales of commonly controlled companies are aggregated to determine whether the group sales exceed one million.

[17]Exemptions are found in Section 107 of the Act and Parts 1453, 1454, and 1455 of the Regulations.

[18]Ten years of contractor experience under the Act has, however, provided fairly accurate statistics in specific industries and by Volume of Sales and a "range" of profit perhaps three or four percentage points wide within which any particular contractor may be expected to fall.

[19]Generally, if a cost is a good tax deduction, it is a good deduction in renegotiation *if allocable to renegotiable business.* Rules relating to deductibility and allocability are found in Part 1459 of the Regulations.

NOTICE

Throughout the year the Committee on Taxation sponsors Tax Talks, at which meetings tax matters of interest to the general practitioner are discussed. These are luncheon meetings. If you are not now receiving notices of these meetings and wish to be placed on the list of members receiving them please notify the office of the Association.

poses, may be unsound renegotiation-wise so that the tax gain is lost many times over in renegotiation.[20]

In order to help preserve their hard earned profits, counsel should assist their clients to segregate their defense sales as they are made, to document their efficiencies, risks and contributions, as they go along, and by all means to make an adequate filing.[21] If a client's case should be assigned, the client should by all means and from the beginning treat the matter as one which could have an impact even more serious than taxes on his business, present and future. After struggling to get the hardware out the door and earn the profits, the correct presentation of data can be the most important job of all, as it will determine to a marked extent how many dollars are left from his efforts during the year.

[20]Consider for example the possible effect of the 200% declining balance method of depreciation upon an anticipated increase in profits two or three years hence; or the effect of fluctuating inventory prices in a tight raw materials market.

[21]A proper filing requires an accurate segregation of sales between renegotiable and non-renegotiable business which in turn depends upon a thorough application of the myriad exemption possibilities (in certain instances it behooves a contractor *not* to avail himself of an exemption), and an appropriate and precise allocation of direct and indirect costs to each segment of the business. Many cases are assigned to a Regional Board and perhaps even end in refunds of profits simply because the original filing is inadequate for screening purposes, i.e. the segregation of sales and allocation of costs appear incorrect on the face of the filing.

BAR ACTIVITIES

Calendar

Los Angeles County Bar Association

Committees

September 7—Tax Committee, 12 noon.
September 7—Delegates to State Bar Conference.
September 8—Public Relations, 12 noon.
September 12—Psychiatric Department of the Superior Court, 9:00 a.m.
Jinks, 4:30 p.m.
September 12—Delegates to State Bar Conference.
September 13—Adoptions, 4:30 p.m.
September 14—Delegates to State Bar Conference.
September 20—Corporate Law Departments, 12 noon.
Unlawful Practice of the Law, 12:30 p.m.

Junior Barristers

October 20—Monthly luncheon meeting, University Club, 12 noon. Mr. Melvin M. Belli will speak on Warranty Res Ipsa Loquitur, Absolute Liability, and their coalescing trend under the title "The Morality of the Yunkee Peddler."
September 20—Deadline for entries in the Justice Ashburn Junior Barristers' Legal Essay Contest.

Affiliated Associations

September 11—Inglewood District Bar Association, 12 noon, Elks Club.

State Bar of California

September 25 to 29—Thirty-third annual meeting, Monterey.

American Bar Association

February, 1962—Mid-year meeting, Chicago, Illinois.
August 6 to 10, 1962—Annual meeting, San Francisco.

(Official announcements concerning events of interest to members of the Los Angeles County Bar Association will be included in the Calendar as space permits. The deadline for submission of dates is the 20th of the prior month. Please send information to the office of the Bar Association.)

Persons Who Served On The Federal Courts Criminal Indigent Defense Panel During August, 1961

Robert E. Aitken
Jerome M. Bame
E. O. Berry
Glenette Blackwell
Allen E. Botney
Rodney R. Buck
Richard P. Byrne
Robert S. Cogen
Philip Deitch
Gerald S. Johnson
Bernard Lauer
Louis L. Litwin
Seymour Mandel
Edward Mizrahi
David Paltun
Sheldon Penn
Carl O. Petersen
Robert M. Peterson
David Pierson
Charles C. Richardson
Benjamin Sadler
Norbert A. Schlei
Martin J. Schnitzer
Arthur Soll
Norman Spivak

notes from your Law Library

by JOHN W. HECKEL • Head Reference Librarian, Los Angeles County Law Library

APPELLATE PROCEDURE: *Briefing and Arguing Federal Appeals* by Frederick Bernays Wiener (Bureau of National Affairs, 506 p.) is a new edition of *Effective Appellate Advocacy.* It is a practical book dealing with the importance of appeals and their treatment in the federal courts. The first section discusses the writing of briefs and the ways of making them effective. The second part of the book is devoted to the essentials of oral argument. A final section discusses petitions and rehearings.

COURTS: *The Faces of Justice: A Traveller's Report* by Sybille Bedford (Simon and Schuster, 316 p.) is a journalist's record of the every day judicial process in England, Germany, Austria, Switzerland and France. Slices of testimony, taken in antique courtrooms, fill in the human detail of the workings of the legal systems that vary from country to country. A variety of actions are reported: a French woman sues for her inheritance; in Munich a woman seeks a divorce, while Dr. Brach stands trial in Karlsruhe for killing a man.

INSANITY: *Guilty but Insane* by G. W. Keeton (MacDonald, 206 p.) recounts four landmark trials. The Insanity Bill of 1800 was a result of the trial of James Hadfield. Daniel McNaughton's trial in 1843 resulted in the famous rule. The trial of Straffen, 1952, concerned a mental defective who killed while escaping from Broadmoor. In the Podola case, 1959, lack of memory was the defense.

JURISPRUDENCE: *Precedent in English Law* by Rupert Cross (Oxford, 268 p.) explains the place of precedent in the English legal system. *Ratio decidendi* and *obiter dictum* are defined. Chapters are devoted to *stare decisis* and exceptions to the rule. Another book, *Justice According to the English Common Lawyers* by F. E. Dowrick (Butterworth, 251 p.) treats the concept of justice in various aspects: as judicature and as fair trial, in natural, moral, and social law. Quotations from judges serve as the basis for the study.

PRODUCTS LIABILITY: *American Law of Products Liability* by Robert D. Hursh (Lawyers Coop.) is to be published in four volumes. The first one, now published, analyzes the elements indispensable to a products liability action: defectiveness, identification of defendant, and proximate cause. Chapter 2 discusses the standard of care, inspection and testing, and the duty of warning. Breach of warranty, fraud and misrepresentation, and the doctrine of privity are discussed in other chapters. The book is extensively documented with all applicable reported cases. The later volumes will cover advertising, and injuries from beverages, drugs, cosmetics, foods, mechanical equipment, and appliances.

RADIO: *Broadcasting and Government: Responsibilities and Regulations* by W. B. Emery (Michigan State University Press, 482 p.) studies the

structure of the American system of broadcasting and the powers used by the Federal Communications Commission to regulate it.

SUPREME COURT: *The Supreme Court: Views from the Inside*, edited by Alan Westin, Professor of Public Law at Columbia University (Norton, 192 p.) reprints articles and talks by justices of the Supreme Court outside the decision making process. The first part, concerning the work of the court is represented by Jackson, Frankfurter, Clark, Douglas, and Harlan. Justice Clark's "Inside the Court" is an account of the working sessions. Part two is highlighted by Justice Frankfurter's "Reflections on Reading Statutes." The third part, composed of works by Byrnes, Douglas and Brennan, is concerned with precedent, segregation and "the law." The final section consists of articles by Jackson and Black on liberty and judicial review.

TRIAL PRACTICE: American Jurisprudence's *Proof of Facts*, 11 v. is now completed with the publication of a 12th volume containing a Medical Glossary and a General Index.

WRITING: *Legal Writing Style* by Henry Weihofen (West, 323 p.). The author, a professor of law at the University of New Mexico, reviews the elements which make for excellent composition: precision, conciseness, simplicity, and clarity. These elements

are applied to the drafting of memoranda and briefs. Both fact statements and arguments are considered. Emphasis is on the practical with a discussion of the use of words and their meaning and how to write with clarity while avoiding prolixity.

GOVERNMENT PUBLICATIONS: *Air Laws and Treaties of the World, An Annotated Compilation* prepared for the Senate Committee on Science and Astronautics (1476 p.) is background for the space age problems involving the control of outer space and the rules regulating flights. Another volume, *Legal Problems of Space Exploration* (1392 p.) reprints articles and reports from both the communist and American points of view.

NEW PERIODICALS: *PEAL, or Publishing, Entertainment, Advertising and Allied Fields Law Quarterly* is being published by Callaghan Co., Chicago, $20.00 per year. Edited by Alan Choka, the review will print both original articles and reprints from trade publications on legal problems which are not generally available to attorneys. The first issue contains an article on motion picture titles by Michael F. Mayer. A talk by Earl Kinter on advertising is reprinted from the Business Lawyer. Other articles deal with newspaper reporters, television order letters, copyright for uncopyrightables, and the taxation of literary property.

Los Angeles County Bar Association Delegation To The 1961 Conference Of State Bar Delegates

Delegates

Matthew S. Rae, Jr., *Chairman*
Ira M. Price, II, *Vice Chairman*
Sharp Whitmore, *Secretary*
Richard F. Alden
Arthur S. Bell, Jr.
Henry G. Bodkin, Jr.
Dean S. Butler
E. Talbot Callister
Alan G. Campbell
C. Clinton Clad
R. Bradbury Clark
Everett B. Clary
Chaplin E. Collins
Grant B. Cooper
E. Avery Crary
James E. Cross
William C. Farrer
Edward C. Freutel, Jr.
John L. Goddard
Leon L. Gordon
Henry Grivi
John Joseph Hall
George C. Hadley
William Halpern
Gordon F. Hampton
George Harnagel, Jr.
James D. Harris
Clyde E. Holley
Joseph K. Horton
Harry L. Hupp
James M. Irvine, Jr.
Leonard S. Janofsky
Helen Kemble
E. Wallace MacDiarmid, Jr.
Augustus F. Mack, Jr.
Hugh L. Macneil
Arthur K. Marshall
David H. Massey
William S. McClanahan
John F. McKenna, Jr.
Henry T. Moore
John C. Morrow
Sidney A. Moss
Lester E. Olson
Milo V. Olson
Lawrence L. Otis
John P. Pollock
Raymond R. Roberts
Robert F. Schwarz
Benjamin W. Shipman
Frank Simpson III
Glendon L. Tremaine
Mary E. Waters
Louis M. Welsh
Philip F. Westbrook, Jr.
George H. Whitney
Richard H. Wolford
Loyd Wright, Jr.
Donald E. Ruppe

Alternate Delegates

Chester I. Lappen
A. Thomas Grazer
James V. McCandless
Donald O. Welton
Harold S. Voegelin
Robert B. Krueger

David E. Agnew
Blase A. Bonpane
John H. Rice
Thomas L. Flattery
Glen Behymer
Knox Farrand
A. R. Early
Arthur L. Alarcon
Roderick M. Hills
Preston B. Hotchkis
Paul Palmer
Robert C. Comstock
John J. Quinn, Jr.
Otto M. Kaus
Dorothy K. Davis
Lucile Watt
Richard A. Gadbois, Jr.
Karl L. Davis, Jr.
James R. Hutter
Robert L. Hunt
Charles D. Silverberg
F. Daniel Frost

Richard Barry
Frank W. Woodhead
Hugh W. Darling
Richard H. Zahm, Jr.
Arnold H. Gold
Warren M. Christopher
Earl P. Willens
Charles G. Bakaly, Jr.
Edward S. Renwick
William I. Chertok
Richard P. Byrne
John W. Shenk, III
Richards D. Barger
Donald O. Krag
James M. Hall
Irving P. Austin
G. Bentley Ryan
White McGee, Jr.
Gordon K. Wright
Edward S. Shattuck
Maynard J. Toll
A. Stevens Halsted, Jr.

Applications

The following applications for membership and reinstatement will be considered in the near future by the Membership Committee and the Board of Trustees:

APPLICATIONS FOR MEMBERSHIP

Robert Earl Aitken
Henry Rysdyk Blackham, II
Rodney Alan Baker
Jerry G. Collett
Neale Everett Creamer
Lawrence Walter Crispo
Harvey Raymond Gerber
Raymond Gloozman
Morton Lester Greenberg
Samuel Greenfield
Richard L. Johnson
Robert Evan Johnson
Emile Karson
Dwight Henry Lindholm
William E. Linsenbard
J. Keith McGregor
Alexander S. Melgun
Nathan Mudge
Ellis D. Reiter
Howard V. Thompson, Jr.

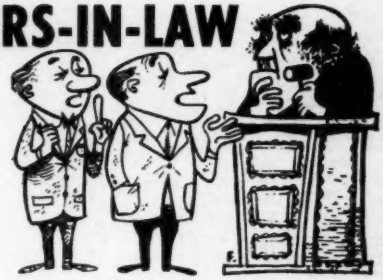
APPLICATIONS FOR REINSTATEMENT

Paul Leiter
Francis M. Reiter

You are requested to advise the Membership Committee of any information concerning the above that would be of value to the Committee and the Board of Trustees, and you may rest assured that any information furnished will be regarded in strict confidence.

MEMBERSHIP COMMITTEE

BROTHERS-IN-LAW



By
GEORGE
HARNAGEL, JR.

Europotpourri

We have been told by the editor that a number of subscribers observed that *Brothers-in-Law* did not appear in several recent issues of the BULLETIN and inquired about its absence. It is good to be missed, so we will not cavil at the fact that these observant readers did not observe the explanation which appeared in the May issue. It was probably our fault anyway. No doubt the simple fact that we were going to take an extended trip to Europe was obscured by our customary circumlocution.

Now that we are back and hard at work—if only in making up long lists of things that have to be done—we are ready to pick up where we left off last May. But before we return this department to its regular rut, the editor thinks it would be in order for us to report on our European excursion, provided we can be a bit briefer than Mr. Gunther. We will therefore leave the world situation to him and content ourselves with matters more personal than punditic. In doing so we will, to avoid possible misunderstanding, from this point on substitute "I" for the editorial "we" and use that plural pronoun in its usual sensible if frequently ambiguous sense.

This was my first trip to Europe—a humiliating admission which numbers me among the underprivileged—and the second for my wife; and I am happy to say it exceeded our expectations, which were considerable. We had many interesting, many stimulating, and a number of really memorable experiences—along with a few experiences, period. We are glad we went but it is unlikely we will prescribe as large and as long a dose of Europe for ourselves again. You get awfully tired of packing and unpacking, of operating a peripatetic hand laundry and of continental breakfasts.

Before we left we had a great deal of advice from our more experienced friends about the best way to travel in Europe. Some recommended doing it on a completely independent basis, with or without our own car; others thought we should entrust ourselves entirely to the protecting arms and the concommitant regimentation of an organized tour; and still others favored something in between. It wasn't originally planned that way, but by force of circumstances it turned out that our trip was in five segments, each more or less glued to the next, and from segment to segment we experienced almost every type of travel known to the industry.

There were just six of us in the opening Irish and English segments and the same six in the closing Belgian and Scottish segments. In be-

tween we became part of an organized tour which covered most of the continent, and mostly in its own bus, except for a few boat rides and for the Oslo-Flaam-Bergen-Oslo loop, which was by train and steamer. In England the six of us were virtually on our own. In Belgium and Scotland we had different degrees of assistance from local travel agencies. But in Ireland we had it best of all.

There we traveled by "minibus" (a Volkswagen) that neatly carried the six of us, our bags and a driver with whom we promptly established cordial rapport. He turned out to be a Cork fireman who was picking up a little extra money on his time off. He hadn't been to many of the places on our itinerary, but he had a good guide book and we had a wonderful time showing Ireland to each other.

He didn't mind at all—in fact he was glad—to get off the beaten track. For example, we picked up rumors (I believe through him) that somewhere some miles off the line of our itinerary was the ancestral home of President Kennedy's forbears. We spent several hours and received a lot of misinformation before we finally got there, but "Dunnold" was pleased as Punch about the whole thing. (The interest in Mr. Kennedy in Ireland, at least in Eire, to which our Irish segment was confined, was wondrous to behold.) As for travel arrangements, we'll take "Dunnold" and his minibus any day. It has nearly all the flexibility of independent travel by private car and none of the responsibilities.

Wherever we stopped we did a lot of walking. Without a doubt that is the best way to see a city or a village, and it has the admirable side-effect of girth control. Even with the

continental breakfast—which was pretty general on the Continent, except for parts of Scandinavia—we ate more abundantly than at home, due to the fact that the typical European lunch is the caloric equivalent of a second dinner. Despite this overindulgence we came home a few pounds trimmer than when we departed.

There is a lot about Europe that the conventional guide books don't deal with and even Mr. Gunther's remarkable work omits a lot of useful information. The field is wide open for good handbooks on various subjects, such as hotel windows and hotel plumbing, both of which come in bewildering variety, and some of which provide puzzling operational problems, not to say surprises.

A work on how to handle fellow tourists could deal with such down-to-earth problems as the best way to evade the lady you never knew before who wants to borrow a few hundred dollars until the next mail arrives and the southern gentlewoman who proposes that you—a sober citizen who doesn't know about such things—take her and a few of her "girl" friends on a tour of the redlight district of Amsterdam. Then there's the lady who complains: "If he'da said it was the Notre Dame, I'da got outa the bus, but all he kept talking about was 'Our Lady of Paris' and how was I to know?"

There are many other subjects I could suggest for similar publications, but perhaps the greatest need is for a good work on sign language for the typical, mono-lingual American. Don't believe it when they tell you that everybody—or everybody you need to converse with—speaks and understands English. There's very little of it spoken or understood in the back country and there are a lot of people you run into in Paris and Rome and other big cities whose knowledge of the Queen's English begins and ends with "Okay."

In Rothenburg, one of the charming medieval cities of Bavaria, with ancient walls and fairy-tale buildings, I ran out of shaving cream. The little store had some in a familiar package, that is, familiar except for the language in which it was printed; and I wanted to know whether it was brush or brushless. The language barrier proved insurmountable and my explanatory gestures merely bewildered the shopkeeper. If one of the amused passersby had not obligingly summoned a son, who was home from school on vacation, I would probably still be trying to get my inquiry across.

On two other occasions I lacked a bath towel. In San Marino the chambermaid didn't understand me at all so I tried going through the motions of drying myself. At this she brightened and asked: "Oh, no soap?" In Brussels I didn't even have that much success until I followed the girl into another room, picked up a towel and waved it at her. Out of abundant caution perhaps I should add that in neither instance was I in immediate need of the article requested.

With few exceptions we found the Europeans very friendly, even cordial. This was certainly true of the Scandinavians, particularly the Danes, and of the Swiss, Scots, Irish and English. England, however, reminded me a bit of the sign I once saw on driving into a little town in the inter-mountain area: "Population: 5,000 pretty good fellows and a few stinkers."

We didn't have much contact with the Yugoslavs; and, what we had, left

us uncertain as to the state of their affections. Our principal impression was one of wide-spread poverty and, without exception, the members of our party found Yugoslavia rather depressing. We were all happy to be checked through at the Italian border where, as if by magic (or a trick of the imagination), the atmosphere changed completely.

In Dublin a member of parliament, arriving to answer a division call, overheard the factotum of the outer guard giving my wife and me complicated directions for reaching the visitors' gallery. He interrupted and said: "That will take you all day. Come along with me. I married an American wife and I ought to do something for America in return." We encountered him when the session was over and found he was a student of the American Civil War and that he thought his government's effort to revive the Gaelic language was all nonsense and Ireland's policy during World War II all wrong.

When the six of us returned from the Continent to London, enroute to Edinburgh, and a travel agent failed to meet the boat train, a kindly porter took charge of us, rescued our bags from the customs enclosure, got us a couple of cabs and advised us to give the travel agency "a bit of your mind in the morning." Being entirely ignorant of the going rates for such services, and not wanting either to be niggardly or to go to the other extreme, as many American tourists are reputed to do, I asked what we owed him. "That," he said, "is entirely up to you, sir." I then took him into my confidence, explained my lack of background in such matters and told him I would appreciate his suggestion as to a reasonable charge. He still de-

clined, saying courteously but firmly that a fee was never suggested, but was always left to the discretion of the client – which was, of course, the smartest thing he could have said. If only such a simple and effective fee system were feasible in our profession!

In Edinburgh a young Scot saw us puzzling over a map, asked if he could help and wound up by driving us up Arthur's Seat and half way around the town.

In the restaurant car on the Trans-European Express, on the way from Paris to Brussels, I undertook to spend my remaining French money down to the last centime, and congratulated myself on just making it. The waiter's calculation, however, was a bit different. He wanted something more, but I couldn't make out how much. (French is no doubt my best foreign language, except for talking and listening.) I turned to the French *grandmère* who shared our table, and also our compartment, for a translation. She good-naturedly obliged and insisted on providing the necessary 40 centimes so I would not have to break a $1 bill and encumber myself with more francs and centimes. In the interest of good international relations I let her do so, on an interim basis. She told us, incidentally, that she had a high regard for American $1 bills, taking them with her wherever she traveled in Europe or the Near East.

And so it went. Although he was only doing his duty as he conceived it to be, the friendly gesture that pleased and surprised us the most, probably because it was the first, was that of the Hall Porter (I use capitals as he was a man of importance) at the Great Southern Hotel in Killarney. He descended the front steps of the hotel in his impressive regalia, shook our hands in turn and welcomed us to Ireland. After having flown all night and driven for a couple of hours through the back country of our first foreign land, it was somehow just what we needed.

All those with whom we had any business dealings were scrupulously honest, except the Paris taxi drivers, who are not above anything, and a few souvenir shops there which were not above trying to work off old francs (which now have the value of centimes) for new francs on the unsuspecting tourist. The London taxi drivers went out of their way to make sure we understood we were getting the right change. With one lone exception, we can also give our cabbies in Rome a clean bill of health for honesty, although hardly a recommendation for a driver's license.

We cannot speak too highly, however, of the skill of the German driver who piloted our huge Europabus through streets that seemed impossibly narrow and twisting and over a half dozen mountain passes without a scratch or scarcely a jar. We were particularly glad to have him at the wheel when we passed, a few days after the tragedy, the spot where a bus had plunged into the depths of Lake Lucerne; and also on the climb over the St. Gotthard pass. That, without a doubt, provided the most sustained thrill of the trip, even for those of us who were more or less accustomed to mountain driving. It was almost too much for some of the ladies from the Middle West.

A lawyer is tempted to observe the Law in action wherever he goes, and so it was with me.

In London I was able to work in a couple of visits to the courts in what our itinerary referred to as "leisure time," and went away with an im-

pression of unhurried efficiency on the part of court and counsel. In Dublin I got in at the tail end of a considerable argument in the Supreme Court and was then passed into the law library by an amiable bailiff who volunteered to show me around. It seemed to double as a clubroom where barristers in wig and gown exchanged shop talk while waiting for their cases to be called.

Nor could I shed my interest in the Law as I met it in our daily rounds. For example, I noted much discussion in the newspapers of the legal aspects of the theft of the Goya from the National Galleries in London. I remember one article in particular which pointed out that while the thief couldn't pass title to a buyer in England or America, even to one who bought in good faith, it might be quite different if he disposed of it on the Continent.

The Glasgow newspapers carried a story about a "training for freedom scheme under which Scots prisoners are allowed out for four hours with [ten shillings] to spend" as a means of preparing them for their release; and my faith in the Scottish proclivity for treating money with care was not restored until I read the following notice on our tickets for the Military Tattoo at Edinburgh Castle: "In the event of this performance being cancelled through inclement weather tickets are NOT valid for any other performance and money will NOT be refunded."

Now, I do not know whether, under the law of Scotland, the purchaser of an automobile on time or the old lady who signs up with a dance studio is given as much protection as is afforded their California counterparts by the new and newly amended sections of our Civil Code, but the Scottish law

displays considerable solicitude for the shopper who is about to spend half a bob in the candy department of Woolworths, Ltd. On the glass front of each little compartment is the neatly printed notice:

Sale of Food
Weights and Measures Act of 1929
Notice

The Attention of Customers is drawn to the fact that the Weight of Foils or of Immediate Paper Wrappings on our Chocolates and Confectionary is included in the Weight of Goods Sold.

Several pages could be filled with other intriguing signs and notices encountered along the way, but I will mention only two more. In Salzburg our party was formally advised that the matinee performance at the Marionette Theatre had been cancelled "because of good weather." And, back in Edinburgh again, there was that big sign splashed across the window of a furniture store: "HALF YEARLY SALE—NO INCREASE IN PRICES." In all candor, I think the last part of that probably had reference to a slight increase in the purchase tax (at the wholesale level) that had gone into effect a little before.

The local guides in Europe do a pretty good job. They enjoy their work and work pretty hard at it. Some are clever and some are philosophers. A number of their aphorisms stick in my mind, but I will limit myself to these. In Berne: "Switzerland has no iron, no coal, no oil—nothing, except hard work and peace." In Milan: "The Renaissance was a mixture of art, love and poison."

It seemed to me I could remember the professor in my course in Medieval History saying something like that many years ago. It was the most fascinating college course I ever had, but there are only two things about it I now recall for sure: (1) That "Charlemagne cut the age of confusion in two"; and (2) That a very attractive girl sat in the front row, at one side of the room, while I sat at the back and on the other side, from which vantage point I could keep her under observation. It was therefore a pleasant surprise, in the Louvre, to happen upon the impressive sword with which Charlemagne did the cutting; and my pleasure was immeasurably heightened by the fact that the girl in question was doing the Louvre with me, or, more accurately, *vice versa*.

Our stay in Paris included the long week end that carried through Assumption Day, Tuesday, August 15, both a national and a religious holiday. The newspapers were openly predicting a putsch against De Gaulle during this period, when most Parisians would be out in the country, one even ironically predicting that fighting would ensue in Place de la Concorde. Apparently the government took it seriously, for as we prowled about the city we encountered several riot squads stationed unobtrusively here and there. We didn't bother to find out whether they were special police or some branch of the military. They looked very businesslike, whatever they were.

Due more to luck than to foresight we happened to be in a number of places at just the right time. As we drove into Dungarven, a little Irish village, we found ourselves in the midst of the monthly "market fair," a day when the cattle, sheep and pigs from the surrounding countryside have the liberty of—and take great liberties with—the village square and all that is in and about it. Our visit to Dublin coincided with the celebration of the 1500th anniversary of the death of

that famous Scotchman, Saint Patrick. In Dinkelsbuhl, another of the picturesque walled cities of Bavaria, we arrived just as the Dinkelsbuhler Knabenkapelle (the town's boys band), in wig, tricorne and all the rest, was staging a parade. And we happened to get to Paris a few hours ahead of schedule, to mention just one more recurrence of serendipity, which permitted us to attend the Fête de Nuit at the Neptune Basin at Versailles. This is presented only four or five times a year and consists of three major elements: a pageant on a tremendous scale depicting the glories of "the golden age" of France; the playing of the fountains under vari-colored illumination; and finally the most spectacular fireworks display any of us had ever witnessed.

This, along with "Sound and Light" at the Belvedere Palace in Vienna and again in the Roman Forum, superb performances of "My Fair Lady" at the Drury Lane Theatre and "Much Ado About Nothing" at Stratford-on-Avon, plus the Military Tattoo on our last night abroad, were standouts in a considerable string of nights out on the town.

By and large, "Folies Bergere" seemed to fall short of the expectations of the ladies and it must be conceded that for nudity it didn't hold a small candle to the acres on public display in Frogner Park in Oslo. If some technical fellow cares to point out that at Frogner it is done in granite, another technical fellow might reply that in neither case is it pinchable.

Magnificent churches, palaces and art galleries are, as the saying goes, a dime a dozen. If you had to limit yourself to one of each, we would have to think a long time before advising

you about churches or galleries. With palaces it would be quite different. Without hesitation we would nominate Linderhof, the (comparatively) little gem created by Ludwig II, the so-called "Mad King" of Bavaria, whose penchant for constructing expansive and expensive dwellings finally got him into serious trouble with the taxpayers.

This could go on forever, and perhaps even the most patient reader—if still aboard—believes it has already done so. I hasten therefore to conclude by fielding a question which has frequently been tossed our way since our return: What do you want to see if (or when) you go back?

We know we would omit some things, such as kissing the Blarney Stone or queuing up to see the crown jewels in the Tower of London, or attending the changing of the guard at Whitehall and Buckingham Palace. They're all right, but once is enough. A few others we'll omit because once is too many. But by and large we'd like to do the whole thing again — Yugoslavia excepted — in smaller pieces.

If we had to list the places to which we would particularly like to return we would have to include Switzerland, especially the Interlaken area. And we couldn't omit England or Scotland. The latter was the final leg on our journey and I anticipated an anti-climax, but I was dead wrong; and I am prepared to file a brief on the beauties and fascinations of Edinburgh at the drop of a kilt. Also we would relish a return to Bavaria, and to Heidelberg, Copenhagen, Bruges, Venice, Vienna and Salzburg. And it would be hard to resist the fjord country of Norway, where above and beyond the beauties of nature I was deeply impressed by the lonely, isolated little farms, pitched high on the mountain slopes, wherever a hardy, tenacious people could find a patch of tillable soil.

Finally, we might even include the Italian Riviera where the swimming is delightful and our stay was all too short. And reasonable men will agree that the right kind of a girl in a bikini, to use a preposition carelessly—and the right kind seems to flourish there —can be just about as interesting in her own way as the ruins of an eleventh century abbey or a visit to the Hanseatic Museum.

STATEMENT REQUIRED BY THE ACT OF AUGUST 24, 1912, AS AMENDED BY THE ACTS OF MARCH 3, 1933, JULY 2, 1946 AND JUNE 11, 1960 (74 STAT. 208) SHOWING THE OWNERSHIP, MANAGEMENT, AND CIRCULATION OF

Los Angeles Bar Bulletin published monthly at Los Angeles, California for September, 1961.

1. The names and addresses of the publisher, editor, managing editor, and business managers are:

Publisher: Los Angeles County Bar Assn., 510 S. Spring St., Los Angeles 13, Calif.

Editor: Robert B. Krueger, 433 S. Spring St., Los Angeles 13, Calif.

Managing editor: None.

Business manager: Robert M. Parker, 229 E. 4th St., Los Angeles 13, Calif.

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(Signature of editor, publisher, business manager, or owner) Robert M. Parker.

Sworn to and subscribed before me this 27th day of September, 1961.

(SEAL) MARGARET H. FALES

My commission expires January 11, 1962.

Notary Public in and for the County of Los Angeles, State of California.